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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/795,935	03/08/2004	Robert T. Gunn	514210-2067.1	1338
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FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			EXAMINER GRAY, JILL M	
			ART UNIT 1774	PAPER NUMBER

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/795,935

Applicant(s)

GUNN, ROBERT T.

Examiner

Jill M. Gray

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-9, 13, 15-22, and 25-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Gunn 5,752,278 and 5,590,420 (hereinafter referred to collectively as Gunn).

Gunn teaches low friction apparel comprising a low friction fiber and a method of imparting low friction characteristics onto a fiber and article, per claims 1, 9, 13, 15, and 18. See abstracts. The low friction fiber comprises a polymeric component and a low friction component wherein the polymeric component and low friction component are essentially as claimed in claims 2-3, 8 and 16-17. See for example ' 278, column 2, lines 54-60 and column 3, lines 4-8. In addition, Gunn teaches a coefficient of friction that preferably is reduced to below about 0.6, which is within applicant's range as set forth in claims 5-7. See column 3, lines 42-45. The article can be apparel or footwear per claims 19-22 (Examples 2 and 3) and the fibers can be incorporated overall or in specific areas of the article, per claims 25-28. See column 3, lines 25-32.

Therefore, the prior art teachings of Gunn anticipate the invention as claimed in present claims 1-3, 5-9, 13, 15-22, and 25-28.

### ***Claim Rejections - 35 USC § 103***

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 10-12, 14, and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gunn, 5,752,278 and 5,590,420 (collectively referred to as Gunn), each as applied above to claims 1-3, 5-9, 13, 15-22, and 25-28 in view of Kubo et al, 5,614,123 (Kubo).

Gunn is as applied above but does not specifically teach the concentration of the polymeric component and low friction component as set forth in claims 4 and 10 or the specific denier of the fiber as required by claims 11-12 or the addition of other additives. In this concern, applicants' concentration of polymeric component and low friction component are modifications which are well within the capabilities of one skilled in the art. In particular, it would have been obvious during routine experimentation to determine the specific concentration of low friction component necessary to result in the desired coefficient of friction of the resultant product. As to the denier of the fiber, it would have been obvious to one of ordinary skill in the art at the time the invention was made to choose and determine the denier of a fiber commensurate with the desired end use of said fiber. For example, a fiber to be used as a brush filament would not necessarily have the same denier as a fiber used in absorbent composites, such as diapers. Accordingly, it is the position of the examiner that where the general condition of a claim are disclosed in the prior art, it is not inventive to discover the optimum or

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workable ranges of fiber denier or component concentration by routine experimentation.

*In re Aller*, 105 USPQ 233 (CCPA 1955). As to claim 14, Gunn is silent as to his specific composition; however, Gunn does teach that his chemical treatment can be selected from known chemical treatments such as silicones and fluoropolymer compositions. Kobo teaches a fluoropolymer treating agent used for textiles, said treating agent comprising flame retardants, antistatic agents and an antimicrobial agent. See column 7, lines 8-12. It would have been obvious to use as the composition taught by Gunn a composition known in the art, such as the composition of Kubo, with the reasonable expectation of imparting a low coefficient of friction to the textile or fibers as well as producing articles that have excellent water and oil repellency and are stainproof. As to claims 23-24, Gunn teaches a wide variety of uses of his low friction apparel, including horse blankets. This teaching would have provided a suggestion to the skilled artisan that other bedding articles could be formed with the reasonable expectation of success.

Therefore, the teachings of Gunn would have rendered obvious the invention as claimed in present claims 4, 10-12, 14, and 23-24.

No claims are allowed.

### ***Conclusion***

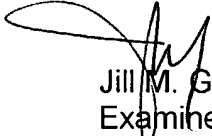
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jill M. Gray whose telephone number is 571-272-1524. The examiner can normally be reached on M-F 10:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on 571-272-1526. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jill M. Gray  
Examiner  
Art Unit 1774

jmg